

The Hall, 2nd Floor, Memorial Hall Library, 2 N. Main Street, Andover

Present were: Anderson (Chair); Batchelder (Acting Clerk); Jeton (Member); Baime & Boness (Associate Members).

The meeting opened at 7:06 p.m. Baime arrived at 7:15 p.m.

Petition No.: 3997

Premises affected: 11 Lincoln St

Petitioner: Land

Members: Anderson (Chair); Batchelder (Acting Clerk); Jeton (Member); Baime & Boness (Associate Members)

The public hearing opened without Member Baime and with the petitioner's consent to a 4-member board. The proposal is to construct a 4'x6' portico over existing stairs that will not meet the minimum front setback of 40', but will be 30' (as was required in 1946 when the house was constructed). It is similar to other houses in the neighborhood. [Baime arrived at 7:15 p.m.] The Board noted that the plot plan submitted with the application does not depict the proposed portico. It must be updated with the proposed setback & dimensions. Batchelder made a motion to close the public hearing. Boness seconded the motion & the Board voted (5-0) to close the hearing. The Board then deliberated. Batchelder made a motion to approve a Special Permit to construct the unenclosed portico no larger than 4'x6' with the condition that the applicant must submit a certified plot plan with the stairs & portico depicted. Jeton seconded the motion & the Board voted (5-0) to grant the Special Permit with conditions. Baime made a motion to deny the variance as moot. Jeton seconded the motion & the Board voted (5-0) to deny the variance as moot. Batchelder will write the decision.

Petition No.: 3998

Premises affected: 34 Park St

Petitioner: Montalto

Members: Anderson (Chair); Batchelder (Acting Clerk); Jeton (Member); Baime & Boness

Attorney Mark Johnson was present, along with and on behalf of Lillian Montalto, owner of Lillian Montalto Signature Properties, as a Party Aggrieved for review of a decision made by the Building Inspector &/or for variances from Article VIII, Sections 5.2.5.5, 5.2.9.5, 5.2.5.1, 5.2.6.1 to install a window display & signs. The Design Review Board (DRB) has discussed the proposed installations twice. Johnson submitted a photo of 34 Park Street, which is setback 132' from the street, unlike other buildings in the zoning district. The applicant believes that the interactive keyboard is not signage & should be allowed. It will be affixed to the interior of the window. This installation will not exceed the 30% maximum allowed & the letters do not exceed 2" in height, thus it conforms to the bylaw. The applicant's team explained the purpose & functionality of the display. A variance may be needed because it is opaque & attached to the exterior of the building. The Board discussed that the installation with the screen & keyboard acts as a sign because it draws attention to the premises, is opaque & on the outside of the window. Johnson presented photos of other merchants in the downtown area with window displays & argued that the unique characteristic of this property is its distance from the street. Several residents spoke in favor of the requested relief & the applicant. Anderson noted the DRB comments of 7/24/12 that stated they were not in favor of the proposal. Boness made a motion to

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close the public hearing. Jeton seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. The Board felt it is a sign. Batchelder made a motion to deny the request for Party Aggrieved. Boness seconded the motion & the Board voted (5-0) to deny the request as Party Aggrieved. The Board discussed the requested variances. Anderson asked for a motion to approve the requested variances to allow the installation on the inside of the window of the center window pane at the height shown in the photo submitted this evening with the visual display setback from the window so that it is not a sign under the bylaw, the hardship being the size of the lot & the large front setback of the store to the street, far from the viewing public, that will not have an adverse effect on the neighborhood. No one made the motion. Anderson asked Johnson if his client wanted to request to withdraw without prejudice. Johnson requested that the Board allow his client to withdraw the variance requests without prejudice. Batchelder made a motion to allow withdrawal without prejudice the variance requests. Jeton seconded the motion & the Board voted (5-0) to allow the variance requests to be withdrawn without prejudice. Anderson asked Johnson if his client wanted the Board to reconsider the vote on the Party Aggrieved in order to withdraw without prejudice. Johnson requested that the Board reconsider the vote on Party Aggrieved. Batchelder made a motion to reconsider the vote on Party Aggrieved. Jeton seconded the motion & the Board voted (5-0) to reconsider the vote on Party Aggrieved.

Petition No.: 3999

Premises affected: 41 Lowell Junction Rd.

Petitioner: William Ferris

Members: Anderson (Chair); Batchelder (Acting Clerk); Jeton (Member); Baime & Boness

Steve Anderson reminded the Board that Petitioner Ferris appeared previously seeking a variance for a contractor's yard under §3.1.3.C.23 &/or §3.1.3.C.24 for a landscaping business operated at his home. The property is located in the IA District on Map 159 Lot 9. At that time the Board suggested Mr. Ferris find an alternate location for his business. Petitioner has since found a potential alternate location at a freight lot located between non-functioning railroad tracks. To the northeast is a foundation with steel cylinders 15-20' in diameter. To the north is property owned by Watson who operates a paving and septic business. Map 159 Lot 13 is unoccupied, formerly used for general services. Another lot has a house. Map 159 Lot 12 is vacant. Access to the property is via deeded easement with no exclusive use from Lowell Junction Rd. Petitioner's equipment consists of 4-6 trucks, 3-5 trailers, open & enclosed trailers, vans & dump trucks. Petitioner stated that there would be no building on the lot, that the property would be used for outdoor storage with some containers. Jeton suggested Petitioner apply for 2 Special Permits. Batchelder expanded saying that permits should include wholesale, storage, warehousing and a contractor's yard. Petitioner said he would need an accessory use building in the future stating he needs a primary use building that would be less than 10,000 square feet. Anderson asked if Petitioner would be happy with a contractor's yard. Petitioner confirmed this. Jeton added that if the contractor's yard was approved, it would not allow moving a building to the site. Boness said he understood Petitioner wanted to build a 13,000 square foot building & lease part of it. Ferris explained he wanted a contractor's yard & to lease to other contractors. Ferris explained a future building may include 2 garages; the 2nd level would be storage & maintenance. The building would be 10,000 sq ft. Ferris explained that his proposal would eliminate containers & move into the future building.

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Batchelder suggested reading the contractor's yard definition. The Board declined to view the site. Jeton made a motion to close the hearing. Batchelder seconded the motion & the Board voted (5-0) to close the hearing.

The Board then proceeded to deliberate. Batchelder motioned to approve a Special Permit for a contractor's yard under §3.1.3.G.23 to operate a landscaping business. Baime seconded the motion. Boness commented that the business fits in the neighborhood but was concerned with how it was obtained & what was proposed, whether other uses were more attractive to the town (a 13,000 square-foot garage). Jeton commented that she wanted to deal with the current request, not the previous process. She said it was a good location for its use. Baime & Boness agreed. The Board voted (5-0) to grant the Special Permit. Ferris requested to withdraw without prejudice the request for a Special Permit §3.1.3.C.24. Anderson made a motion to allow the withdrawal without prejudice. Jeton seconded the motion & the Board voted (5-0) to allow the withdrawal without prejudice the request for a Special Permit §3.1.3.C.24. Jeton will write the decision.

The Board then presented minutes to be approved.

Minutes of June 26, 2012. Baime made a motion to approve. Nancy Jeton seconded the motion & the Board voted (4-0) to approve the minutes of 6-26-12.

Minutes of the July 5, 2012 meeting were presented. Jeton made a motion to approve the minutes of 7-5-12. Boness seconded the motion. The Board voted (3-0) (Jeton, Baime, Boness) to approve the minutes of 7-5-12.

Steve Anderson recused himself and left the remainder of the meeting at 8:52 p.m.

Petition No.: 3996

Premises affected: 146 Dascomb Road

Petitioner: Sprint

Members: Nancy Jeton (Chair); Lynne Batchelder (Acting Clerk); Baime & Boness

Eric Kalio represented the Applicant, Network Building & Consulting, in their request to add a small fiber distribution box in the exterior compound & swap three exterior panel antennas with new technology antennas similar in shape & size. Also proposed are six additional radio head units. Jeton referred to a letter from T. Urbelis dated July 31, 2012 regarding President Obama's recently passed law (332.C7) regarding state/local government not denying requests to modify existing wireless communications facilities that does not include a substantial change. Jeton asked if the new box is equal to the box in the compound lease area & if the area within the fence equals the base station. Kalio said it helps new antennas. Batchelder wanted to know where the six radio head units would be located & indicated that the radio box is additional, but the antenna is the same size. Kalio referred to Sheet A-2 explaining that a remote radio head helps propagate a call so it won't drop. Batchelder referred to the expansion of size on the monopole. Kalio said photos show little to no change in visibility with the radio head. Batchelder said it sticks out further. Baime asked what the size of the compound is. Boness noted that it is within the exterior equipment shelter and was irrelevant. He added that drawings Kalio has tonight are later revised in version 7.9 than in the packet. He asked about the three antennas up there now and where they were. Kalio referred the Board to Sheet A-1 at the 98' centerline of the existing & proposed

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antennas. Boness noted that the structural analysis references the monopole being at 99.2% allowable capacity. Kalio said structural analysis was done under the 8th Ed. of MA State Building Code & the percentages are misleading. Boness asked why the plans show future AT&T antennas. Kalio responded that it helps prevent future installation on antennas at that height.

Batchelder moved to close the discussion. Boness seconded the motion & the Board voted (4-0) to close. The Board then proceeded to deliberate. Boness said the proposal was standard but suggested review of conflicting information regarding cables (interior & exterior of the pole). He suggested approval with the condition that the cables be interior to the pole & conform to plans submitted by applicant. Jeton questioned which sets of drawings were to be submitted. Boness was not sure if there was a difference. Kalio is to print bigger size showing no obstruction. Boness made a motion to approve. Batchelder seconded the motion. The Board voted (4-0) to approve. Boness is to write the decision.

There being no further business of the Board Batchelder moved to adjourn. Baime seconded the motion. The Board voted (4-0) to adjourn. The meeting was adjourned at 9:10 p.m.